CONSTRUCTIVE TRUSTS BASED UPON THE BREACH OF AN EXPRESS ORAL TRUST OF LAND.

Dedicated to Professor Langdell.

AN express trust may arise in any one of three ways:

1. The owner of property may undertake to hold it in trust for another.

2. The owner of property may transfer it to another, either in his lifetime or by will, to hold upon trust for a third person, or for the grantor himself if the conveyance is *inter vivos*.

3. A purchaser may procure the conveyance by the seller of the property purchased to a third person to hold upon trust either for the purchaser or for some other person.

If the trust is of land and oral, and the trustee, after undertaking the trust in good faith, declines to perform it, what are the legal relations of the trustee, the *cestui que trust*, and the creator of the trust?

In the face of the statute of frauds, which provides that in the absence of a writing the trust shall be "only void and of none effect," equity, it is clear, cannot compel the performance of the express trust. But does it follow from this that the trustee, who has broken his promise, is subject to no legal obligation whatever? In answering this question it will be helpful to consider separately each of the three classes of express trusts already described.

1. Declarations of trust by the owner.

The owner of land, who orally declares himself a trustee of it, may make this declaration gratuitously, or for value received. If the declaration of trust is gratuitous, and the trustee repudiates the trust, sheltering himself under the statute of frauds, that is the end of the matter. The express trust being invalid, the *cestui que trust* fails to make the expected gain, and the trustee does not suffer the anticipated loss. The old *status quo* being unchanged, there is no basis for any other claim against the trustee.

If, on the other hand, the declaration of trust is for money received or other consideration, the situation is different. In this case, as in the other, by force of the statute the *cestui que trust*

cannot get, and the trustee may keep, the land. But shall he be allowed to keep also the money or other consideration given to him by the *cestui que trust?* It is one thing for a promisor to save himself from a loss by reliance upon the statute, and quite another to make the statute a source of profit to himself at the expense of the promisee. Justice demands the restoration, so far as possible, of the *status quo* by compelling the trustee to surrender to the *cestui que trust* whatever he received from the latter upon the faith of his promise to perform the trust. Such relief does not in any way infringe upon the statute. The invalidity of the express trust is fully recognized. Indeed, it is the exercise of the trustee's right to use it as a defense that creates the *cestui que trust's* right of *restitutio in integrum.* This conclusion is abundantly supported by the decisions. One who has received money for an oral agreement to convey land, and refuses to convey, must refund the money.[1] If the consideration given for such an agreement was work and labor, that of course cannot be given back in specie, but the promisor must pay the value of such work and labor.[2] If the consideration was in the form of chattels, the promisor who breaks his promise, and also refuses to return the chattels, may be sued in trover or replevin,[3] if he still has them, and in quasi-contract for their value or their proceeds, if he has consumed them or sold them.[4] Similarly, if the oral agreement was for the exchange of lands, and one party having conveyed his, the other refuses to make the counter conveyance, the grantor may compel a reconveyance of his own land if the grantee still has it,[5] and

[1] Allen *v.* Booker, 2 Stew. (Ala.) 21; Barickman *v.* Kuykendall, 6 Blackf. (Ind.) 21; Hunt *v.* Sanders, 1 A. K. Marsh. (Ky.) 556; Jellison *v.* Jordan, 68 Me. 373; Cook *v.* Doggett, 2 Allen (Mass.) 439; Bacon *v.* Parker, 137 Mass. 309, 311; Payne *v.* Hackness, 84 Minn. 195; Perkins *v.* Niggerman, 6 Mo. App. 546; Gilbert *v.* Maynard, 15 Johns. (N. Y.) 85; Cade *v.* Davis, 96 N. C. 139; Rineer *v.* Collins, 156 Pa. St. 342; Bedell *v.* Tracy, 65 Vt. 494; Thomas *v.* Sowards, 25 Wis. 631.

[2] Grant *v.* Grant, 63 Conn. 530; Schoonover *v.* Vachon, 121 Ind. 3; Holbrook *v.* Clapp, 165 Mass. 563; Ham *v.* Goodrich, 37 N. H. 185; King *v.* Brown, 2 Hill (N. Y.) 485; Gifford *v.* Willard, 55 Vt. 36; Kessler's Estate, 87 Wis. 660.

[3] Keath *v.* Patton, 2 Stew. (Ala.) 38; Updike *v.* Armstrong, 4 Ill. 564; Shreve *v.* Grimes, 4 Litt. (Ky.) 220, 223; Keith *v.* Patton, 1 A. K. Marsh. (Ky.) 23; Duncan *v.* Baird, 8 Dane (Ky.) 101; Luey *v.* Bundy, 9 N. H. 298; Rutan *v.* Hinchman, 30 N. J. L. 255; Orand *v.* Mason, 1 Swan (Tenn.) 196; Miller *v.* Jones, 3 Head (Tenn.) 525.

[4] Sailors *v.* Gambril, Smith (Ind.) 82. In some jurisdictions the remedy of quasi-contract is allowed, although the sale or destruction of the chattel is not established. Booker *v.* Wolf, 195 Ill. 365.

[5] Burt *v.* Bowles, 69 Ind. 1; Jarboe *v.* Severin, 85 Ind. 496; Ramey *v.* Stone, 23 Ky. L. Rep. 301; Dickerson *v.* Mays, 60 Miss. 388.

may recover the proceeds of the sale or its value if it has been sold.[1]

2. Conveyances upon trust for the grantor or a third person, and devises upon trust for a third person.

If A conveys land to B upon an oral trust to hold for or reconvey to himself, the grantor, and B repudiates the trust which he assumed in good faith, the case is clearly within the principles which we have found to govern the first class of cases already considered. A cannot enforce performance of the express trust because of the statute of frauds. But B ought not to be allowed to retain A's land and thus by his breach of faith to enrich himself at the expense of A. If he will not perform the express trust, he should be made to reconvey the land to A, and to hold it until reconveyance as a constructive trustee for A. A, it is true, may by means of this constructive trust get the same relief that he would secure by the enforcement of the express trust. But this is a purely accidental coincidence. His bill is not for specific performance of the express trust, but for the restitution of the *status quo*. This right to *restitutio in integrum* has been enforced in several English cases.[2] There are a decision in Canada[3] and a dictum in Missouri[4] to the same effect. In Massachusetts the grantor is allowed to recover not the land but the value of the land in a count for land conveyed.[5] But in several states the grantor is not allowed to recover either the land or its value.[6] In many

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[1] Wiley *v.* Bradley, 5 Ind. App. 272; Smith *v.* Hatch, 46 N. H. 146; Smith *v.* Smith, Winst. Eq. (N. C.) 30. In Bassford *v.* Pearson, 9 Allen (Mass.) 387, there is a dictum that *assumpsit* for money had and received cannot be maintained by the grantor for the proceeds of his land sold by the grantee. No reason is given for this dictum and it seems indefensible. In several cases the grantor was allowed to recover the value of his land from the grantee who still had it, but the question of the plaintiff's right to recover the land itself seems not to have been in the mind of either party. Bassett *v.* Bassett, 55 Me. 127; Miller *v.* Roberts, 169 Mass. 134; Nugent *v.* Teachout, 67 Mich. 571; Dikeman *v.* Arnold, 78 Mich. 455; Andrews *v.* Broughton, 78 Mo. App. 179; Henning *v.* Miller, 83 Hun (N. Y.) 403.

[2] Davies *v.* Otty, 35 Beav. 208; Haigh *v.* Kaye, L. R. 7 Ch. 469; Booth *v.* Turle, L. R. 16 Eq. 182; Marlborough *v.* Whitehead, [1894] 2 Ch. 133; De la Rochefoucauld *v.* Bonstead, [1897] 1 Ch. 196.

[3] Clark *v.* Eby, 13 Grant Ch. (U. C.

[4] Peacock *v.* Peacock, 50 Mo. 256, 261.

[5] Twomey *v.* Crowley, 137 Mass. 184; O'Grady *v.* O'Grady, 162 Mass. 290; Cromwell *v.* Norton, 79 N. E. Rep. 433 (Mass., 1906).

[6] Mescall *v.* Tully, 91 Ind. 96; Calder *v.* Moran, 49 Mich. 14 (*semble*); Wolford *v.* Farnham, 44 Minn. 159; Marcel *v.* Marcel, 70 Neb. 498; Sturtevant *v.* Sturtevant, 20 N. Y. 39.

others, also, the courts, while properly refusing to enforce the express trust, give no intimation of any right to recover the land on any theory of restitution, or its value on the principle of quasi-contract.[1]

The Massachusetts rule permitting the grantor to recover the value of the land instead of the land itself is illogical. It is based upon the principle of restitution. But this principle requires restitution *in specie* whenever it is practicable, and restitution in value only as a substitute when specific restitution is impossible. The Massachusetts rule, too, is inferior to the English rule in point of justice. If the grantee, when he repudiates his oral obligation, is insolvent, the grantor in Massachusetts must come in with the general creditors and get only a dividend on the value of the land, whereas in England he would recover the land itself. The statute of limitations would bar the money claim much sooner than the claim for the land. If, again, after the repudiation of the express oral trust, the land should appreciate greatly in value, the repudiator would, in Massachusetts, reap the benefit of this appreciation, while in justice it should go to the grantor.[2]

But restitution in value is certainly an approximation to full justice, and in many cases the grantee would be as well satisfied with the value of the land as with the land itself. But there is nothing to be said in defense of the prevailing American doctrine which gives the grantor neither the land nor its value. This doctrine is due to the failure of the court to perceive that specific performance of an express agreement and compulsory restitution of the consideration for the agreement are fundamentally different things, even in cases in which the practical result of the two remedies is the same.[3] This oversight of the American courts is the

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[1] Patton *v.* Beecher, 62 Ala. 579; Brock *v.* Brock, 90 Ala. 86; Jacoby *v.* Funkhouser, 40 So. Rep. 291 (Ala., 1906); McDonald *v.* Hooker, 57 Ark. 632; Barr *v.* O'Donnell, 76 Cal. 469; Sheehan *v.* Sullivan, 126 Cal. 189; Verzier *v.* Conrad, 75 Conn. 1; Stevenson *v.* Crapnell, 114 Ill. 19; Moore *v.* Horsley, 156 Ill. 36; Fouty *v.* Fouty, 34 Ind. 433; Gowdy *v.* Gordon, 122 Ind. 533; Ostenson *v.* Severson, 126 Ia. 197; Gee *v.* Thrailkill, 45 Kan. 173; Wentworth *v.* Skibles, 89 Me. 167; Moore *v.* Jordan, 65 Miss. 229; Conner *v.* Follansbee, 59 N. H. 124; Hogan *v.* Jaques, 19 N. J. Eq. 123; Lovett *v.* Taylor, 54 N. J. Eq. 311 (criticizing the English cases); Boreham *v.* Craig, 80 N. C. 224; Barry *v.* Hill, 166 Pa. St. 344; Taft *v.* Dimond, 16 R. I. 584; Kinsey *v.* Bennett, 37 S. C. 319; Parry *v.* American Co., 56 Wis. 221.

[2] It is assumed that the value of the land at the time of the repudiation of the express trust would be the amount payable by the grantee. But there seems to be no decision on this point.

[3] Some of the American decisions were influenced by a hasty and now overruled

more surprising, because in another class of cases, not to be distinguished in principle from those under consideration, the same courts, unwilling to permit the grantee to profit by his breach of faith at the expense of the grantor, have rightly given to the grantor, by way of restitution, the same practical relief which specific performance would have given him if that could have been enforced. This other class of cases is commonly said to illustrate the rule that oral evidence is admissible to show that an absolute conveyance was intended to operate as a mortgage. This, of course, is a loose way of stating the principle. In truth, equity cannot compel specific performance of the oral agreement to reconvey, because the statute of frauds forbids. But, if the grantor pays or tenders the amount due to the grantee, it would be shockingly unjust for the grantee to keep the land. Equity therefore says to the grantee, "We cannot compel you to perform your promise to reconvey, but if you will not keep your word, surrender to the grantor what you received from him on the faith of your promise." Obviously this reasoning, which justifies the result in the mortgage cases, is equally cogent in the cases in which A conveys to B upon an oral trust to reconvey, and in England both classes of cases are dealt with as resting upon the same principle of *restitutio in integrum*.

If A conveys land to B upon an oral trust for C, and B refuses to perform the trust, the rights of the parties are easily defined. C obviously cannot enforce the express trust,[1] nor, since he has

judgment of Leach, V. C., in Leman *v.* Whitley, 4 Russ. 423. In that case the really gratuitous conveyance upon the oral trust for the grantor purported to be in consideration of £400. The vice-chancellor, having committed the error of refusing relief by way of restitution, was so much impressed by the resulting injustice that he gave the grantor a vendor's lien for the ostensible purchase money, and thereby fell into another error. This error was repeated in Gallagher *v.* Mars, 50 Cal. 23; McCoy *v.* McCoy, 32 Ind. App. 38. But this extension of the vendor's lien to cover a case in which no money was payable has been generally repudiated. Stevenson *v.* Crapnell, 114 Ill. 19; Ostenson *v.* Severson, 126 Ia. 197; Palmer *v.* Stanley, 41 Mich. 218; Tatge *v.* Tatge, 34 Minn. 272.

[1] Skett *v.* Whitmore, Freem. Ch. (Miss.) 280; Jacoby *v.* Funkhouser, 40 So. Rep. 291 (Ala., 1906); Ammonette *v.* Black, 73 Ark. 310; Smith *v.* Mason, 122 Cal. 426; Robson *v.* Hamell, 6 Ga. 589; Lantry *v.* Lantry, 51 Ill. 458; Marie Church *v.* Trinity Church, 205 Ill. 601; Meredith *v.* Meredith, 150 Ind. 299; Willis *v.* Robertson, 121 Ia. 380; Rogers *v.* Richards, 67 Kan. 706; Philbrook *v.* Delano, 29 Me. 410; Campbell *v.* Brown, 129 Mass. 23; Perkins *v.* Perkins, 181 Ill. 401; Shaffter *v.* Huntington, 53 Mich. 310; Luse *v.* Reed, 63 Minn. 5; Metcalf *v.* Brandon, 58 Miss. 841; Taylor *v.* Sayles, 57 N. H. 465; McVay *v.* McVay, 43 N. J. Eq. 47; Goldsmith *v.* Goldsmith, 145 N. Y. 313, 318 (but see Ahrens *v.* Jones, 169 N. Y. 555); Salter *v.* Bird, 103 Pa. St. 436; Perkins *v.* Cheairs, 58 Tenn. 194.

parted with nothing, can he have relief upon any other ground. But A, as in the preceding case, may recover his land,[1] for B may not honestly keep it if he will not fulfill the promise which induced A to part with it. In Massachusetts A would probably recover the value of the land instead of the land itself.[2]

One would expect a devise by A to B upon an oral trust for C to create the same rights upon B's refusal to perform the trust as a conveyance by A to B upon an oral trust for C, except that, restitution to the testator being impossible, his heir, as representing him, would be entitled to the reconveyance of the land. But by a strange inconsistency in the law both in England and in this country, C is allowed to get the benefit of the trust in spite of the statute of frauds.[3] These decisions were induced by the desire to prevent the use of the statute as an instrument of fraud. But the courts seem to have lost sight of the distinction between a misfeasance and a non-feasance, between a tort and a passive breach of contract. If a devisee fraudulently induces the devise to himself, intending to keep the property in disregard of his promise to the testator to convey it or hold it for the benefit of a third person, and then refuses to recognize the claims of the third person, he is guilty of a tort, and equity may and does compel the devisee to make specific reparation for the tort by a conveyance to the intended beneficiary.[4] If, on the other hand, the devisee has acquired the property with the intention of fulfilling his promise, but afterwards decides to break it, relying on the statute as a defense, he commits no tort, but a purely passive breach of contract. Equity should not compel the performance of this contract at the suit of the beneficiary, because the statute forbids. But, notwithstanding this

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[1] Hal *v.* Linn, 8 Colo. 264; Von Trotha *v.* Bamberger, 15 Colo. 1 (*semble*); McKinney *v.* Burns, 31 Ga. 295; Peacock *v.* Peacock, 50 Mo. 256, 261.

But see, *contra*, Irwin *v.* Ivers, 7 Ind. 308; Calder *v.* Moran, 49 Mich. 14 (*semble*).

[2] Basford *v.* Pearson, 9 Allen (Mass.) 387 (discrediting Griswold *v.* Messenger, 6 Pick. (Mass.) 517); Twomey *v.* Crowley, 137 Mass. 184.

[3] Sellach *v.* Harris, 2 Eq. Cas. Abr. 46, pl. 11; Norris *v.* Fraser, 15 Eq. Rep. 318; De Laureheel *v.* De Boom, 48 Cal. 581; Buckingham *v.* Clark, 61 Conn. 204; Larmon *v.* Knight, 140 Ill. 232; Ramsdel *v.* Moore, 153 Ind. 393; Gilpatrick *v.* Glidden, 81 Me. 137; Gaither *v.* Gaither, 3 Md. Ch. 158; Campbell *v.* Brown, 129 Mass. 23, 26; Hooker *v.* Axford, 33 Mich. 453; Ragsdale *v.* Ragsdale, 68 Miss. 92; Smullin *v.* Wharton, 103 N. W. Rep. 288 (Neb., 1905); Carver *v.* Todd, 48 N. J. Eq. 102; Norton *v.* Mallory, 63 N. Y. 434; Collins *v.* Barton, 20 Oh. 492; McAuley's Estate, 184 Pa. St. 124; Rutledge *v.* Smith, 1 McCord Eq. (S. C.) 119; McLellan *v.* McLean, 2 Head (Tenn.) 684.

But see, *contra*, Moore *v.* Campbell, 102 Ala. 445; Orth *v.* Orth, 145 Ind. 184.

[4] Crossman *v.* Keister, 79 N. E. Rep. 58 (Ill., 1906); Newis *v.* Topfer, 121 Ia. 439; Wall *v.* Hickly, 112 Mass. 171; Pollard *v.* McKenney, 69 Neb. 742.

honest acquisition of the land, the devisee cannot honestly retain it, and equity should compel him to surrender it to the heir as the representative of the testator. It is quite possible that the courts, in giving C the benefit of the trust in cases of devises by A to B upon an oral trust for C, and in refusing him any relief in cases of similar conveyances *inter vivos*, were influenced by the practical consideration that in the latter case the grantor, recovering his property by the principle of restitution, would still be in a position to accomplish his purpose, whereas in the case of the devise the accomplishment of his purpose would depend wholly upon the will of his heir. This view finds confirmation in a recent New York case,[1] in which the grantee in a conveyance executed by one upon his deathbed agreed orally to deal with the property for the benefit of a third person, and was compelled by the court to carry out his promise.

3. Conveyances by the seller, by direction of the buyer, to a third person.

In the old days of uses, when the title to the bulk of the land in England was not in the owners but in feoffees to the use of the owners, it was natural to presume, as the courts did presume, that one who received a conveyance from a seller by the direction of the buyer was to hold in trust for the buyer. But after the extirpation of uses by the Statute of Uses in 1536, the custom of the country changed, nor did it revive with the introduction, a century later, of the modern passive trust. Accordingly, after the Statute of Uses there was no reason for any presumption that the grantee of a seller was a trustee for the one who paid the purchase money. But the courts, nevertheless, continued to raise the presumption, and furthermore treated this presumption of fact, based upon the supposed intention of the parties, as if it were a rule of law, so that these presumed trusts arising from the payment of the purchase money were deemed to be trusts by operation of law and therefore within the exception to the statute of frauds. This doctrine was criticized by Chancellor Kent in Boyd *v.* McLean,[2] and in several states has been modified by legislation. The statutes, however, differ in form and effect.

In Indiana and Kansas the statute abolishes the presumption of a trust resulting from the mere fact that one person pays the purchase money for a conveyance to another, but provides expressly

[1] Ahrens *v* Jones, 169 N. Y. 555.

[2] 1 Johns. (N. Y.) 582, 585.

that whenever the trustee actually agrees, although only by word of mouth, to hold in trust for the buyer, the trust is valid.[1]

In Kentucky the statute abolishes not only the presumption of a trust, but the trust itself, providing, however, that the grantee, who refuses to perform the oral trust, shall reimburse the buyer for the purchase money paid by him to the seller.[2]

In Michigan and Minnesota the statute abolishes the trust and gives the buyer no relief of any kind against the grantee, thereby working a forfeiture upon the confiding buyer to the unmerited profit of the faithless grantee.[3]

The language of the New York statute is almost identical with that of the Michigan and Minnesota statutes, but the courts are not agreed as to its effect. In some cases the statute has been interpreted, in accordance with the Michigan and Minnesota decisions, as penalizing the buyer to the advantage of the grantee.[4] In others the courts have declared that the statute has merely abolished the presumption of a resulting trust, and does not prevent the creation of a valid trust, if there was in fact an agreement, although not in writing, that the grantee was to be a trustee for the buyer.[5] This interpretation, it will be seen, gives to the New York statute the same effect which is secured in express terms by the Indiana and Kansas statutes.

Of these three statutory doctrines it may be said that the Michigan and Minnesota rule is shockingly unjust in enriching the faithless grantee at the expense of the trusting buyer; that the Kentucky

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[1] Glidewell *v.* Spaugh, 26 Ind. 319; Franklin *v.* Colley, 10 Kan. 260.

[2] Martin *v.* Martin, 5 Bush (Ky.) 47, 56; Manners *v.* Bradbury, 81 Ky. 153, 157.

[3] Groesbeck *v.* Seeley, 13 Mich. 329; Newton *v.* Sly, 15 Mich. 391; Winans *v.* Winans, 99 Mich. 74; Chapman *v.* Chapman, 114 Mich. 144; Irvine *v.* Marshall, 7 Minn. 286; Johnson *v.* Johnson, 16 Minn. 512; Haaven *v.* Hoaas, 60 Minn. 313; Anderson *v.* Anderson, 81 Minn. 329; Ryan *v.* Williams, 92 Minn. 506.

[4] Hurst *v.* Harper, 14 Hun (N Y.) 280; Stebbins *v.* Morris, 23 Blatchf. (U. S.) 181; Siemon *v.* Schurck, 29 N. Y. 598, 611.

[5] Gage *v.* Gage, 83 Hun (N. Y.) 362; Smith *v.* Balcom, 24 N. Y. App. Div. 437 (*semble*); Jeremiah *v.* Pitcher, 26 N. Y. App. Div. 402; aff. 163 N. Y. 574.

In New York, if the grantee takes the title, agreeing orally with the buyer to hold it in trust for a third person, the latter may enforce the trust. Siemon *v.* Schurck, 29 N. Y. 598; Gilbert *v.* Gilbert, 2 Abb. App. (N. Y.) 256; McCahill *v.* McCahill, 11 N. Y. Misc. 258. This result seems as unwarranted by the statute as it is by the decisions prior to the statute. In Michigan and Minnesota the third person gets, in such a case, no rights. Shafter *v.* Huntington, 53 Mich. 310; Connelly *v.* Sheridan, 41 Minn. 18. Upon the sound principle of *restitutio in integrum*, it is submitted, the grantee should be charged as a constructive trustee for the buyer. See Randall *v.* Constans, 33 Minn. 329, 336–338.

rule is a close approximation to justice; and that the Indiana and Kansas rule does complete justice. This rule also makes for consistency in the law; for it is everywhere agreed that if the grantee takes the conveyance as a security for a debt due from the buyer, however small the debt or however valuable the land, he cannot, although he repudiates his agreement to reconvey upon payment of the debt, keep the land after payment or tender by the buyer. On the other hand, in Michigan and Minnesota, and possibly in New York, the gratuitous grantee who breaks faith with the buyer may keep the land, while the equally faithless grantee who took the title as security and who is paid off must surrender the land.

It is a step forward, even if a short step, to abolish the artificial presumption of a resulting trust because of the mere payment of the purchase money, for such a presumption favors the buyer unduly. But it is a long step backward to declare that the statute penalizes the innocent buyer to the aggrandizement of the unconscionable grantee. Nor is such a declaration called for by the language of the statute. The provision that there shall be no resulting trust in favor of the purchaser against the grantee, means simply that the law shall not enforce the trust based upon the presumed intention of the parties, — that is, a trust implied in fact, which would arise, if at all, at the time of the payment of the purchase money. But the constructive trust created to prevent the dishonest enrichment of the grantee at the expense of the buyer is enforced in defiance of the grantee's intention, arises only after the grantee has repudiated the intended trust, and is protected by another provision of the statute excepting trusts arising by operation of law from the prohibition of the statute.

It is to be hoped, therefore, that the later New York decisions on this point may prevail over the earlier ones. It is greatly to be wished, also, that the simple principle which requires every one, who is unassailable because of the statute of frauds for the breach of his express trust or promise, to make restitution, *in specie* if practicable, otherwise in value, of whatever he has received upon the faith of his oral undertaking, might receive widespread recognition and appreciation. Such recognition and appreciation would have helped greatly in simplifying the law and promoting justice in the three classes of trusts under consideration in this article.

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